

No. 9116

**DENMARK
and
ZAMBIA**

**Agreement on a Danish Government Loan to Zambia
(with annex and exchange of letters). Signed at
Lusaka, on 18 October 1967**

Official text : English.

Registered by Denmark on 23 May 1968.

**DANEMARK
et
ZAMBIE**

**Accord relatif à un prêt du Gouvernement danois à la
Zambie (avec annexe et échange de lettres). Signé à
Lusaka, le 18 octobre 1967**

Texte officiel anglais.

Enregistré par le Danemark le 23 mai 1968.

No. 9116. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF DENMARK AND THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA ON A DANISH GOVERNMENT LOAN TO ZAMBIA. SIGNED AT LUSAKA, ON 18 OCTOBER 1967

The Government of Denmark and the Government of Zambia desiring to strengthen the traditional co-operation and cordial relations between their countries, have agreed that, as a contribution to Zambia's Development Plan, a Danish Government Loan will be extended to Zambia in accordance with the following provisions of this Agreement and the Annex attached, which is considered an integral part of the Agreement :

Article I

THE LOAN

The Government of Denmark (hereinafter called the Lender) agrees to make available to the Government of Zambia (hereinafter called the Borrower) a development Loan in an amount of 20 million Danish kroner for the realization of the purposes described in Article VI of this Agreement

Article II

LOAN ACCOUNT

Section 1. An account designated "Government of Zambia Loan Account" (hereinafter called "Loan Account") will be opened with Danmarks Nationalbank (acting as agent for the Lender) in favour of the Borrower. The Lender will ensure that sufficient funds are always available in the Loan Account to enable the Borrower to effect punctual payment for goods and services procured under this Loan, provided that the amounts successively made available to the Borrower shall not, in the aggregate, exceed the Loan amount specified in Article I.

Section 2. The Borrower shall be entitled, subject to the provisions of this Agreement, to withdraw from the Loan Account amounts needed for payment of equipment or services procured under the Loan.

¹ Came into force on 23 December 1967, the date upon which the Government of Denmark notified the Government of Zambia that the Finansudvalget (Danish Parliamentary Committee on Ways and Means) had approved the Agreement, in accordance with article XI, section 1.

Article III

RATE OF INTEREST

The Loan will be free of interest.

Article IV

REPAYMENT

Section 1. The Borrower will repay to the Lender the principal of the Loan withdrawn from the Loan Account in thirty-five semi-annual instalments of 550,000 Danish kroner each, commencing on April 1st, 1975, and ending on April 1st, 1992, and one final instalment of 750,000 Danish kroner on October 1st, 1992.

Section 2. The Borrower has the right to repay in advance of maturity all or any part of the principal amount of one or more maturities of the Loan specified by the Borrower with such variations in the amount of instalments as may thereby be rendered necessary.

Article V

PLACE OF PAYMENT

The principal of the Loan will be repaid by the Borrower in convertible Danish kroner to Danmarks Nationalbank to the credit of the current account of the Ministry of Finance with Danmarks Nationalbank.

Article VI

USE OF THE LOAN BY THE GOVERNMENT OF ZAMBIA

Section 1. The Borrower will use the proceeds of the Loan to finance imports (including transport charges from Denmark to Zambia) of such Danish capital equipment for the implementation of Zambia's development projects as will be agreed upon between the Lender and the Borrower.

Section 2. The proceeds of the Loan may also be used to pay for Danish services required for the implementation of Zambia's Development Plan including, in particular, pre-investment studies, preparation of projects and the provision of consultants during the implementation of the projects, assembly or construction of plants or buildings, technical and administrative assistance during the initial period of the undertakings established by means of the Loan.

Section 3. The Borrower will cause the proceeds of the Loan to be applied exclusively to the provision of goods and services needed to implement contracts approved by both Parties. The particulars of the methods and procedures for the payment of such goods and services, beyond those already set forth in Article II, shall be determined by agreement between Borrower and Lender.

Section 4. The concurrence of the Lender as to the eligibility of a contract under the Loan shall not be interpreted in such a manner as to imply that the Lender takes upon himself any responsibility for the proper implementation or subsequent operation of such contracts.

Section 5. The terms of payment stipulated in contracts or documentation to the effect that an order has been placed with a Danish exporter or contractor for supplies or services of the nature described above shall be considered as normal and proper whenever such contracts contain no clauses involving special credit facilities from Danish exporters or contractors.

Section 6. The proceeds of the Loan may be used only for payment of supplies and services contracted for after the entry into force of the Agreement.

Section 7. The Borrower may draw on the Loan Account with Danmarks National bank referred to in Article II for up to three years after the entry into force of the Agreement or such other date as shall be agreed upon by the Lender and the Borrower.

Section 8. If the proceeds of the Loan have not been fully utilized within the time limit stipulated in Section 7 above, the semi-annual repayments shall be reduced by a proportion equal to the ratio between the unutilized amount of the Loan and the principal of the Loan.

Article VII

NON-DISCRIMINATION

Section 1. In regard to the repayment of the Loan, the Borrower undertakes to give the Lender no less favourable treatment than that accorded to other foreign creditors.

Section 2. All shipments of equipment covered by this Agreement shall be in keeping with the principle of free circulation of ships in international trade in free and fair competition.

Article VIII

MISCELLANEOUS PROVISIONS

Section 1. Prior to the first drawing against the Account referred to in Article II the Borrower will satisfy the Lender that all constitutional requirements and other requirements laid down by statute in the Borrower's home country have been met so that this Loan Agreement will constitute a valid obligation binding on the Borrower in the terms of the Loan Agreement.

Section 2. The Borrower will furnish to the Lender evidence of the authority of the person or persons who will, on behalf of the Borrower, take any action or execute any documents under this Agreement, and authenticated specimen signatures of all such persons.

Section 3. Any notice or request under this Agreement and any agreement between the Parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it has been delivered by hand or by mail, telegram, cable or radiogram to the Party at such Party's address as specified in Article XII or at such address as such Party shall have indicated by notice to the Party giving such notice or making such request.

Article IX

PARTICULAR COVENANTS

The principal of the Loan shall be repaid without deduction for, and free from, any taxes and charges, and free from all restrictions imposed under the laws of the Borrower. This Agreement shall be free from any present and future taxes imposed under the laws of the Borrower, or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

Article X

APPLICABLE LAW

Unless otherwise provided for in the Agreement, the Agreement and all the rights and obligations deriving from it shall be governed by Danish law.

Article XI

DURATION OF THE AGREEMENT

Section 1. This Agreement shall come into force on the date upon which the Lender notifies the Borrower that the Finansudvalget (Danish Parliamentary Committee on Ways and Means) has approved the Agreement.

Section 2. When the entire principal amount of the Loan has been repaid, the Agreement shall terminate forthwith.

Article XII

SPECIFICATION OF ADDRESSES

The following addresses are specified for the purposes of this Agreement :

For the Borrower :

Ministry of Finance
P. O. Box RW. 62
Lusaka

Alternative address for cablegrams and radiograms :

Finance Ridgeway
Lusaka

For the Lender with respect to disbursements :

Ministry of Foreign Affairs
Secretariat for Technical Co-operation with
Developing Countries
Copenhagen

Alternative address for cablegrams and radiograms :

Dacomta
Copenhagen

For the Lender with respect to servicing of the Loan :

Ministry of Finance
Copenhagen

Alternative address for cablegrams and radiograms :

Finans
Copenhagen

IN WITNESS WHEREOF the Parties hereto, acting through their representatives duly authorized for this purpose, have caused this Agreement to be signed in two copies in the English language in Lusaka this 18th day of October, 1967.

For the Government of Denmark :

H. E. KASTOFT

For the Government of Zambia :

R. C. KAMANGA

A N N E X

The following provisions shall govern the rights and obligations under the Agreement between the Government of Denmark and the Government of Zambia on a Danish Government Loan to Zambia (hereinafter called the Agreement), of which they are considered an integral part with the same force and effect as if they were fully set forth therein.

Article I

CANCELLATION AND SUSPENSION

Section 1. The Borrower may, by notice to the Lender, cancel any amount of the Loan which the Borrower shall not have withdrawn.

If any of the following events shall have happened and be continuing, the Lender may, by notice to the Borrower, suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account:

- (a) a default shall have occurred in the repayment of the principal under the Agreement or under any other financial commitment entered into by the Borrower in relation to the Lender; or
- (b) a default shall have occurred in the performance of any other covenant or agreement on the part of the Borrower under the Agreement.

Section 2. The right of the Borrower to make withdrawals from the Loan Account shall continue to be suspended in whole or in part, as the case may be, until the event or events which gave rise to such suspension shall have ceased to exist or until the Lender shall have notified the Borrower that the right to make withdrawals has been restored, whichever is earlier, provided however, that in the case of any such notice of restoration the right to make withdrawals shall be restored only to the extent and subject to the conditions specified in such notice, and no such notice shall effect or impair any right, power or remedy of the Lender in respect of any other or subsequent event described in this Article.

If the right of the Borrower to make withdrawals from the Loan Account shall have been suspended with respect to any amount of the balance of the Loan or any part thereof for a continuous period of sixty days, the Lender may, by notice to the

Borrower, terminate the right of the Borrower to make withdrawals with respect to such amount. Upon the giving of such notice such amount of the Loan shall be cancelled.

Section 3. Notwithstanding any cancellation or suspension all the provisions of the Agreement shall continue in full force and effect except as is specifically provided in this Article.

Article II

REMEDIES OF THE LENDER

If any event specified in subparagraphs (a) and (b) of Section 1 of Article I shall occur and shall continue for a period of sixty days after notice thereof has been given by the Lender to the Borrower, then at any subsequent time the Lender, at his option, may declare the principal of the Loan then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in the Agreement to the contrary notwithstanding.

Article III

SETTLEMENT OF DISPUTES

Section 1. Any dispute between the Contracting Parties arising out of the interpretation or administration of the present Agreement, which has not been settled within six months through diplomatic channels, shall, at the request of either Party, be submitted to a tribunal of arbitration consisting of three members. The Chairman of the tribunal shall be a citizen of a third country and shall be appointed by common consent of the Contracting Parties. Should the Parties fail to agree on the appointment of the chairman of the tribunal, either Party may request the President of the International Court of Justice to make the appointment. Each Party appoints its own arbitrator; if a Party abstains from appointing an arbitrator, the latter may be appointed by the chairman of the tribunal.

Section 2. Each Contracting Party will observe and carry out awards given by the tribunal.

EXCHANGE OF LETTERS

I

His Excellency Mr. R. C. Kamanga
Minister of Foreign Affairs
Lusaka

Excellency,

With reference to the Development Loan Agreement of today's date between the Government of Denmark and the Government of Zambia

(hereinafter called the Agreement), I have the honour to propose that the following provisions shall govern the implementation of Article VI of the Agreement.

Payment out of the Loan Account shall be effected in the following manner :

- (1) The Danish exporter or consultant and the Zambia importer or prospective investor shall negotiate a contract, subject to the final approval of the Zambian and the Danish authorities. No contract below 100.000 Danish Kroner, except for utilization of any final balance below that amount, shall be eligible for financing under the Loan Agreement.
- (2) The Government of Zambia will make available to the Danish Ministry of Foreign Affairs copies of the contracts to be concluded under this Agreement. The latter will ascertain, *inter alia*, that
 - (a) the commodities or services contracted fall within the framework of the Loan Agreement;
 - (b) the capital equipment involved has been manufactured in Denmark, or the services to be rendered will be performed by persons carrying on business in Denmark,and inform the Government of Zambia of its findings.
- (3) When the contracts have been approved, the Government of Zambia may draw on the Account with Danmarks Nationalbank to effect payment of the consignment referred to in the contract. Payments out of this Account to Danish exporters or consultants shall be subject to presentation of the necessary documents when Danmarks Nationalbank has ascertained that the conditions for effecting such payments have otherwise been complied with.

If the foregoing provisions are acceptable to the Government of Zambia, I have the honour to suggest that this letter and Your Excellency's reply to that effect constitute an agreement between our two Governments on this matter.

Please accept, Excellency, the assurance of my highest consideration.

For the Government of Denmark :

H. E. KASTOFT

Danish Delegation
Lusaka, 18th October, 1967

II

Mr. H. E. Kastoft
Danish Delegation
Lusaka

Sir,

I have the honour to acknowledge receipt of your letter of today which reads as follows :

[See letter I]

I have the honour to inform you that my Government is in agreement with the foregoing.

Please accept, Sir, the assurance of my highest consideration.

For the Government of Zambia :

R. C. KAMANGA

Lusaka
18th October, 1967

III

His Excellency Mr. R. C. Kamanga
Ministry of Foreign Affairs
Lusaka

Excellency,

I have the honour to refer to the Loan Agreement signed today between the Government of Denmark and the Government of Zambia and to confirm the understanding reached during negotiations to the effect that the proceeds of the Loan will be available for financing the expenses in Danish Kroner of supplies of Danish capital equipment and services for the cement industry, hospital and dental equipment, equipment for slaughter houses, equipment for cold stores, machine tools and such other Danish capital equipment and services as may be agreed upon by the Governments of Denmark and Zambia.

If the foregoing provisions are acceptable to the Government of Zambia, I have the honour to suggest that this letter and your reply to that effect should constitute an agreement between our two Governments on this matter.

Please accept, Excellency, the assurances of my highest consideration.

For the Government of Denmark :

H. E. KASTOFT

Danish Delegation
Lusaka, 18th October, 1967

IV

Mr. H. E. Kastoft
Danish Delegation
Lusaka

Sir,

I have the honour to acknowledge receipt of your letter of to-day's date, which reads as follows :

[See letter III]

I have the honour to inform you that my Government is in agreement with the foregoing.

Please accept, Sir, the assurances of my highest consideration.

For the Government of Zambia :

R. C. KAMANGA

Lusaka
18th October, 1967